

# HOUSE BILL REPORT

## ESHB 1996

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### As Passed House:

March 4, 2009

**Title:** An act relating to locating underground facilities.

**Brief Description:** Concerning the ability to locate underground facilities.

**Sponsors:** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Armstrong and Eddy).

### Brief History:

#### Committee Activity:

Technology, Energy & Communications: 2/18/09, 2/19/09 [DPS].

#### Floor Activity

Passed House: 3/4/09, 95-0.

### Brief Summary of Engrossed Substitute Bill

- Provides that an underground facility owner who is required to subscribe to the one-number locator service and fails to do so is liable for all damages to the owner's underground facilities that occur after proper notice of a scheduled excavation through the one-number locator service.
- Requires an owner of an underground facility to mark the portion of an individual customer service lateral that are owned or operated by the owner of the underground facility.
- Exempts bar holding as an excavation activity for purposes of testing the subsurface atmosphere with a combustible gas indicator.

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## HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

**Staff:** Scott Richards (786-7156)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### One-Number Locator Service.

Under current law, a single statewide telephone number exists for referring excavators to the appropriate one-number locator service. A one-number locator service is operated by non-governmental entities and is a means by which a person can notify utilities of excavation and request field marking of underground facilities. In general, a one-number locator service receives requests for the location of buried utility facilities and relays those requests to member utilities and governmental agencies. The Utilities and Transportation Commission, in consultation with the Washington Utilities Coordinating Council, established minimum standards and best management practices for one-number services.

Before conducting any excavation, excluding agricultural tilling less than 12 inches in depth, a person must notify pipeline companies of the scheduled excavation through the one-number locator service. Notification must occur in a window of not less than two business days, but not more than 10 business days, before beginning the excavation. If a pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must consult with the excavator on-site prior to excavation.

A civil penalty of not more than \$10,000 applies when a person fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline.

An "underground facility" is defined as any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. Also included as an underground facility are distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail. The definition of underground facility does not include a pipeline facility through which hazardous liquid or gas is transported.

### **Summary of Engrossed Substitute Bill:**

An underground facility owner who is required to subscribe to the one-number locator service and fails to do so is liable for all damages to the owner's underground facilities and for any other damages that occurred after proper notice of a scheduled excavation through the one-number locator service. Persons who own underground facilities at their residence, farm, or place of business are not required to subscribe to the one-number locator service.

An owner of the underground facility must provide an excavator with reasonably accurate information as to its locatable underground facilities including service laterals by surface-marking the location of the facilities. "Service lateral" means only that portion of an individual customer service line that is owned or operated by the owner of the underground facility.

Bar holes are excluded as an excavation activity, if a bar hole is created by hand-operated equipment during emergency leak investigations or the bar hole is less than 12 inches in

depth. "Bar hole" is defined as a hole made in the soil or pavement with a bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator. If a bar hole is 12 or more inches in depth, reasonable measures must be taken to eliminate arc hazards.

The definition of "underground facility" is modified to include service laterals as one of the items buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, and hazardous liquids.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) It is extremely serious when someone digs in areas where there are underground facilities. The current notification system has worked well, but it could be better. With all the communications technologies at our disposal, notifying the contractor that the field marking has been completed is much easier to accomplish and is a common sense approach.

A primary purpose of the bill is safety. The bill works to ensure that utility service laterals that are part of a right-of-way or easements be properly marked. Currently, some utilities mark these service laterals properly and some utilities do not. The notification by an underground facility owner that the field marking has occurred is an important safety issue for excavators.

(In support with concerns) There needs to be an allowance made for bar holing when utilities need to conduct emergency excavations for gas leak detection.

(With concerns) There is a technical glitch in the bill. The definition of underground facility owner would include homeowners and other property owners. The cost of positive notification may be expensive to utilities.

(Opposed) None.

**Persons Testifying:** (In support) Representative Armstrong, prime sponsor; Dave Ducharme and Mike Myette, Utility Contractors Association of Washington; Mark Fuglevand, Marsh Bank Construction; and Terrence Caillier, Washington Utility Coordination Council.

(In support with concerns) Collins Sprague, Avista Corporation; and Dave Danner, The Washington Utilities and Transportation Commission.

(With concerns) Kent Lopez, Washington Rural Electric Cooperative Association; Ken Johnson, Puget Sound Energy; Bill Clarke, Washington Public Utility Districts Association; and Doug Levy, Cities of Everett and Kent.

**Persons Signed In To Testify But Not Testifying: None.**